

# Rhode Island Department of Health



## NOTICE OF PUBLIC HEARING

The Director of the Rhode Island Department of Health has under consideration proposed *Rules and Regulations Pertaining to Rhode Island Certificates of Registration for Nursing Assistants and the Approval of Nursing Assistant Training Programs (R23-17.9-NA)*. Changes are being proposed to enable nursing assistants who are working in adult day services programs, assisted living residences, or for nursing service agencies to renew their licenses under the provisions of section 5.4 of the regulations. Since the public hearing on June 15, 2006, the requirement that criminal background checks (BCIs) be current within two (2) months of application for registration has been removed.

Notice is hereby given in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended, that the Director will hold a public hearing on the above mentioned matter, in the **AUDITORIUM** of the Cannon Building (on the lower level), Rhode Island Department of Health, 3 Capitol Hill, Providence, Rhode Island on **WEDNESDAY, AUGUST 30, 2006 at 10:00 a.m.** at which time and place all persons interested therein will be heard. The seating capacity of the Cannon Building room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

In the development of the rules and regulations, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information. The health, safety, and welfare of the public precludes any economic impact that may be incurred as a result of these regulations.

For the sake of accuracy, it is requested that statements to be made relative to any aspect of the regulations, including alternative approaches, overlap, or significant economic impact, be submitted in writing at the time of the hearing or mailed prior to the hearing date to: David R. Gifford, M.D., M.P.H., Director, Rhode Island Department of Health, #401 Cannon Building, 3 Capitol Hill, Providence, Rhode Island 02908-5097.

Copies of the regulations are available for public inspection in the Cannon Building, Room #404, Rhode Island Department of Health, 3 Capitol Hill, Providence, Rhode Island, on the Department's website: [www.health.ri.gov/hsr/regulations/index.php](http://www.health.ri.gov/hsr/regulations/index.php) or the Secretary of State's website: <http://www.sec.state.ri.us/rules/> by calling 401-222-1039, or by e-mailing: [LizS@doh.state.ri.us](mailto:LizS@doh.state.ri.us).

*The Cannon Building is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Office of Health Services Regulation at 401-222-1600 (Hearing/speech impaired, dial 711) at least 72 hours prior to the hearing.*

Signed this 18th day of July 2006

David R. Gifford, M.D., M.P.H., Director of Health

**RULES AND REGULATIONS PERTAINING TO  
RHODE ISLAND CERTIFICATES OF  
REGISTRATION FOR NURSING ASSISTANTS  
AND THE APPROVAL  
OF NURSING ASSISTANT TRAINING PROGRAMS**  
(R23-17.9-NA)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Health

August 1990 (E)

***As Amended:***

October 1990

August 1991 (E)

November 1991 (E)

February 1992

April 1992 (E)

August 1992 (E)

October 1992

September 1996

February 2000

November 2001

January 2002 (re-filing in accordance with  
the provisions of section 42-35-4.1 of the  
Rhode Island General Laws, as amended)

January 2004

August 2004

August 2005

**July 2006 (Proposed)**

**COMPILER'S NOTE:**

**Proposed Additions: Underlined**

**Proposed Deletions: ~~Strikeouts~~**

## ***INTRODUCTION***

These rules and regulations are promulgated pursuant to the authority conferred under Chapter 23-17.9 of the General Laws of Rhode Island, as amended, and 42 *Code of Federal Regulations*, Part 431 ~~*et al.*~~ *et seq.* and are established for the purpose of defining the minimum standards for: (1) the training, competency evaluation and registration of nursing assistants; and (2) and to adopt unified standards for nursing assistants in this state to ensure safe and adequate care to individuals receiving nursing assistants' health care services in this state.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, the following issues have been given consideration in arriving at the regulations: (a) alternative approaches to the regulations; and (b) duplication or overlap with other state regulations.  ~~; and (c) significant economic impact on small business as defined in Chapter 42-35 of the General Laws, as amended, which would result from the proposed regulations.~~ No alternative approach, duplication or overlap was identified. The health safety and welfare of the public overrides any economic impact which may result from these regulations. Consequently these rules and regulations are adopted in the best interest of the health, safety and welfare of the public.

These amended rules and regulations shall supersede any other *Rules and Regulations for the Registration of Nursing Assistants and the State Review and Approval of Nursing Assistant Training and Competency Evaluation Programs* promulgated by the Department of Health and filed with the Secretary of State.

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## PART I

### Section 1.0 *Definitions*

Wherever used in these rules and regulations the following terms shall be construed as follows:

- 1.1 **"Abuse"** means any assault as defined in Chapter 11-5, including, but not limited to hitting, kicking, pinching, slapping or the pulling of hair, provided however, unless such is required as an element of offense, it shall not be necessary to prove that the patient or resident was injured thereby, or any assault as defined in Chapter 11-37, or any offense under Chapter 11-10 of the General Laws; or
  - 1.1.1 any conduct which harms or is likely to physically harm the resident/patient except where the conduct is a part of the care and treatment, and in furtherance of the health and safety of the resident; or
  - 1.1.2 intentionally engaging in a pattern of harassing conduct which causes or is likely to cause emotional or psychological harm to the resident/patient, including but not limited to, ridiculing or demeaning a patient/resident, making derogatory remarks to a patient/resident or cursing directed towards a patient/resident, or threatening to inflict physical or emotional harm on a patient/resident.
- 1.2 **"Act"** refers to Chapter 23-17.9 of the General Laws of Rhode Island, as amended, entitled, "Registration of Nursing Assistants."
- 1.3 **"Adult day services program"** means a community-based group program, licensed by the Rhode Island Department of Elderly Affairs in accordance with the provisions of Chapter 42-66 of the Rhode Island General Laws, as amended, designed to meet the biopsychosocial needs of adults with impairments through individual plans of care. These structured, comprehensive, nonresidential programs provide a variety of health, social, and related support services in a protective setting. By supporting families and other caregivers, adult day services enable participants to live in the community. Adult day programs employ an interdisciplinary team to assess the biopsychosocial needs of each participant and to design and deliver integrated programs and services to meet those needs. Participants attend on a planned basis.
- 1.4 **"Approval"** means the process whereby the Director or his/her designee evaluates and grants official recognition to a nursing assistant training program based on the requirements herein.
- 1.5 **"Assisted living residence"** means a publicly or privately operated residence, licensed under the provisions of Chapter 23-17.4 of the Rhode Island General Laws, as amended, that provides directly or indirectly by means of contracts or arrangements personal assistance to meet the resident's changing needs and preferences, lodging, and meals to two (2) or more adults who are unrelated to the licensee or administrator, excluding however, any privately operated establishment or facility licensed pursuant to Chapter 23-17 of the General Laws of Rhode Island, as amended, and those facilities licensed by or under the jurisdiction of the Department of Mental Health, Retardation and Hospitals, the Department of Children, Youth, and Families, or any other state agency. Assisted living residences include sheltered care homes, and board and care residences, or any other entity by any other name providing the above services which

meet the definition of assisted living residence.

- 1.4 1.6 ***“Certificate of Registration”***, as used herein, has the same meaning as “license.”
- 1.5 1.7 ***“Complicated feeding”***, as used herein, means the feeding of residents with complex medical needs such as those with recurrent lung aspirations, difficulty swallowing, or those residents on feeding tubes or parenteral/IV feedings.
- 1.6 1.8 ***“Department”*** means the Rhode Island Department of Health.
- 1.7 1.9 ***“Director”*** means the Director of the Rhode Island Department of Health or his/her designee.
- 1.8 1.10 ***“Health care facility”*** means any institutional health service provider, facility or institution, place, building, agency, or portion thereof, whether a partnership or corporation, whether public or private, whether organized for profit or not, used, operated, or engaged in providing health care services, including but not limited to hospitals; nursing facilities; home nursing care provider (which shall include skilled nursing services and may also include activities allowed as a home care provider or as a nursing service agency); home care provider (which may include services such as personal care or homemaker services); kidney disease treatment centers; health maintenance organizations; free-standing emergency care facilities, and facilities providing surgical treatment to patients not requiring hospitalization (surgi-centers); hospice care, and physician ambulatory surgery centers and podiatry ambulatory surgery centers providing surgical treatment. The term “health care facility” also includes organized ambulatory care facilities which are not part of a hospital but which are organized and operated to provide health care services to outpatients such as central services facilities serving more than one health care facility or health care provider, treatment centers, diagnostic centers, rehabilitation centers, outpatient clinics, infirmaries and health centers, school based health centers and neighborhood health centers. The term “health care facility” shall not apply to organized ambulatory care facilities owned and operated by professional service corporations as defined in chapter 5.1 of title 7, as amended (the “Professional Service Corporation Law”), or to a private practitioner’s (physician, dentist, or other health care provider) office or group of the practitioners’ offices (whether owned and/or operated by an individual practitioner, alone or as a member of a partnership, professional service corporation, organization, or association).
- 1.9 1.11 ***“Long term care services”*** means a set of health care, personal care and social services required by persons who have lost, or never acquired, some degree of functional capacity (e.g., chronically ill, aged, disabled) in an institution or at home on a long-term basis. The term may refer to long-term institutional care such as that provided in nursing homes, or to ambulatory services such as home health care, which may also be provided on a long-term basis.
- 1.10 1.12 ***“Neglect”*** means the intentional failure to provide treatment, care, goods and services necessary to maintain the health and safety of the patient or resident, or the intentional failure to carry out a plan of treatment or care prescribed by the physician of the patient/resident, or the intentional failure to report patient/resident health problems or

changes in health conditions to an immediate supervisor or nurse, or the intentional lack of attention to the physical needs of a patient/resident including, but not limited to toileting, bathing, meals and safety. Provided, however, no person shall be considered to be neglected for the sole reason that he or she relies or is being furnished treatment in accordance with the tenets and teachings of a well recognized church or denomination by a duly-accredited practitioner thereof.

- 1.11 1.13 **"Nursing assistant"** means a nurse's aide, orderly, or home health aide who is a paraprofessional, and who holds a Rhode Island certificate of registration pursuant to the provisions of the Act and the rules and regulations herein, and who is trained to give personal care and related health care and assistance based on his or her level of preparation to individuals who are sick, disabled, dependent, or infirm, and who are residents of or who are receiving services from health care facilities.
- 1.12 1.14 **"Nursing assistant examination"** means an examination approved by the Director that includes a written and practical component that tests the ability of a person to perform the skills and exercise the judgment that is necessary to carry out the duties of a nursing assistant as defined in these regulations.
- 1.13 1.15 **"Nursing assistant training program"** means an organized course of classroom instruction and practical training, approved by the Director, and which has as a major goal the preparation of individuals to function as nursing assistants and to discharge those duties commensurate with basic preparation.
- 1.16 **"Nursing service agency"** means any person, firm, partnership or corporation doing business within the state of Rhode Island that supplies, on a temporary basis, registered nurses, licensed practical nurses, or nursing assistants, to a hospital, nursing home, or other health care facility requiring the services of such persons, with the exception of hospitals, home nursing care providers, home care providers, and hospices licensed in this state.
- For all purposes, a nursing service agency shall be considered an employer and those persons that it supplies on a temporary basis shall be considered employees and not independent contractors. Nursing services agencies shall be subject to all state and federal laws which govern employer-employee relations.
- 1.14 1.17 **"Patient"**, as used herein, is synonymous with client and resident.
- 1.15 1.18 **"Person"** shall mean any individual, trust or estate, partnership, corporation (including associations, joint stock companies), limited liability companies, state, or political subdivision or instrumentality of a state.
- 1.16 1.19 **"Registry"** means the Department's licensure database that provides a mechanism to verify currency of a nursing assistant's registration.
- 1.17 1.20 **"Supervision"** means the provision or exercise of control and direction over the services of the nursing assistant under the direction of a registered nurse or physician licensed in this state or other appropriate health professionals duly licensed, registered and/or certified as may be required by the laws of this state.

~~1.17.1~~ 1.20.1 **"Direct supervision"** means supervision provided by a supervisor who is and remains on the premises, in the building, while the nursing assistant duties are being performed and evaluates the performance of the nursing assistant.

~~1.17.2~~ 1.20.2 **"Indirect supervision"** means supervision provided by a supervisor who does not need to be on the premises while the nursing assistant duties are being performed, but who is responsible for the assignment of duties and evaluation of the performance of the nursing assistant.

## Section 2.0 ***General Requirements***

- 2.1 No person shall be employed in this state as a nursing assistant unless he/she holds a certificate of registration as a nursing assistant in accordance with the provisions of the Act and the rules and regulations herein.
- 2.2 No person shall assume the title of "nursing assistant" or such similar title or use any abbreviations or any other words, letters, signs, figures or devices to indicate that the individual using same is a nursing assistant as set forth in these regulations, unless he/she holds a certificate of registration as a nursing assistant in this state. The only abbreviation that a nursing assistant may use in this state is limited to "N.A."
- 2.3 All health care providers licensed by this state to provide health care services and all health care facilities licensed under Chapter 23-17 of the Rhode Island General Laws, as amended, shall assess patient pain in accordance with the requirements of the *Rules and Regulations Related to Pain Assessment (R5-37.6-PAIN)* of reference 7 herein.

## ***Supervision***

- 2.4 Nursing assistants shall be supervised by professional (registered nurses) and other appropriate professional members of a health care facility or physician. The type of supervision, either direct or indirect, shall be determined by the health care facility based on the qualifications and demonstrated competencies of the individual nursing assistant. Provided, however, those duties listed in Appendix I-C shall be discharged only under direct supervision of the registered nurse.

## ***Exemptions***

- 2.5 Notwithstanding any provision of section 23-17.9-2 of the Rhode Island General Laws, as amended, the definition of "nursing assistant" shall not apply to those persons designated solely as personal care attendants, or programs established and administered for the purpose of providing personal care attendant service, established by Chapter 40-8.1 entitled, "Personal Care Attendant Program."
- 2.6 Furthermore, no provision of the Act shall apply to those persons who are actively matriculating in a bachelor's of science in nursing, associate degree program in nursing, an accredited licensed practical nursing program or registered nurse course of study in a National League for Nursing Accrediting Commission, Inc., or a Commission on Collegiate Nursing Education (CCNE) accredited nursing program provided those persons have completed a minimum of two (2) clinical courses and provided those individuals are supervised by a registered nurse.



Section 3.0     ***Qualifications for Registration for a State Certificate of Registration***

3.1     An applicant seeking a certificate of registration as a nursing assistant shall:

- a)     be of good moral character; and
- b)     have successfully completed a Department-approved nursing assistant training program; **or** be actively matriculating in a nursing program and have completed a minimum of two (2) clinical courses; and
- c)     have successfully completed the required nursing assistant examination.

***OR***

- d)     possess a current registered nurse (RN) or licensed practical nurse (LPN) license.

***OR***

- e)     possess a current registration as a nursing assistant in good standing in an alternate jurisdiction that includes successful completion of a state-approved training program and successful completion of a nursing assistant examination and shall possess the equivalent of three (3) months of full-time work experience as a nursing assistant.

***OR***

- f)     have successfully completed a one hundred (100 ) hour state-approved training program in another state/jurisdiction that includes a minimum of twenty (20) hours of practical clinical training under supervision and successful completion of a nursing assistant examination.

***Application For Registration***

3.2     Application for a Rhode Island certificate of registration as a nursing assistant shall be made on forms provided by the Department. Said forms shall be completed and notarized.

3.3     Such application shall be accompanied by the following:

- a)     one (1) unmounted passport-type photograph of the applicant (head and shoulder view) approximately 2x3 inches in size;
- b)     documented evidence of completion of a Department-approved nursing assistant training program;
- c)     documented evidence of successful completion of the required nursing assistant examination;
- d)     the non-refundable processing fee of twenty-five dollars (\$25.00) made payable by certified check or money order to the General Treasurer, state of Rhode Island; personal checks shall not be accepted.

If the nursing assistant is currently employed by a health care facility at the time of application and has been continuously employed by the same facility for six (6) months after the application, then the processing fee shall be directly refunded to the applicant by the facility or agency.

- e) submission of examination fees, as follows:

Applicant administration fee .....\$40.00  
Written component of examination ..... \$20.00  
Clinical component of examination ..... \$35.00

The examination fee(s) shall be paid by the individual applicant only in the following circumstances: If the applicant is unemployed as a nursing assistant; is an individual with training equivalent to nursing assistant training; or is otherwise qualified to test as determined by the Department.

If the nursing assistant is currently employed by a health care facility at the time of application and has been continuously employed by the same facility for six (6) months after the application, then the testing fee paid by the individual applicant shall be directly refunded on a pro rata basis between months six (6) and twelve (12) to the applicant by the facility or agency, provided that a Department application receipt is presented to the facility/agency by the applicant within one (1) year of the date on the receipt.

- f) Full Bureau of Criminal Investigation (BCI) check from the Rhode Island Attorney General's Office *only*;
- g) If seeking registration under the provisions of section 3.1 (e) {above}, the applicant shall submit a current registration in good standing from the alternate jurisdiction, written documentation from an employer attesting to no less than the equivalent of three (3) months of full-time work experience as a nursing assistant, as well as the items required in section 3.3, subsections (a)(b)(c) and (d).
- h) If seeking registration under the provisions of section 3.1 (f) {above}, the applicant shall submit written documentation of successful completion of a one hundred (100) hour state-approved training program (including the minimum of twenty (20) hours of practical clinical training under supervision) completed in another state/jurisdiction as well as the items required in section 3.3, subsections (a)(c) and (d).

#### Section 4.0 *Licensure by Examination*

- 4.1 The nursing assistant written and practical examinations shall be selected and approved by the Director or his/her designee.
- 4.2 All applicants shall be required to successfully complete the nursing assistant examinations within a period of one (1) year from the date that the applicant began the nursing assistant training program. Otherwise, the nursing assistant applicant shall be required to complete the nursing assistant training program again.

- 4.3 Nursing assistant applicants shall be given three (3) opportunities to successfully complete both the written and practical components of the nursing assistant examinations. After three (3) unsuccessful attempts to complete the nursing assistant examinations, the nursing assistant shall be required to repeat the nursing assistant training program.
- 4.4 Individuals hired to work as nursing assistants shall complete the basic nursing assistant training program, and any required nursing assistant examinations, no later than one hundred twenty (120) days from the employee's effective date of employment, and shall be duly registered with the Department. Individuals who change employment prior to completion of the training program within one hundred twenty (120) days from the date of employment, will not be allowed additional time for completion of the training program without prior approval of the Director.

If the applicant is actively matriculating in a nursing program and has completed a minimum of two (2) clinical courses, upon application and payment of fees to test, he/she may work with a temporary permit for one hundred twenty (120) days from the date on the temporary permit.

#### Section 5.0 *Issuance and Renewal of Registration and Fee*

- 5.1 The Department shall issue to applicants who have satisfactorily met the registration requirements herein a registration as a nursing assistant in this state. Said registration, unless sooner suspended or revoked, shall expire biennially (every two (2) years) on the thirtieth (30<sup>th</sup>) day of June of every other year following the date of issuance of the original registration.
- 5.2 On or before the first day of May of every year, the Department shall mail an application for renewal of registration to every individual who is to renew that year. Every nursing assistant so registered who is to renew his or her registration shall file with the Department such renewal application together with the renewal fee of twenty four dollars (\$24.00) made payable by certified check or money order to the General Treasurer, State of Rhode Island, before the fifteenth (15<sup>th</sup>) day of June.
- 5.3 Upon receipt of such renewal application and payment of said fee, the Department shall grant a renewal registration effective the first (1<sup>st</sup>) day of July, and expiring on the thirtieth (30<sup>th</sup>) day of June two (2) years later unless the registration is sooner suspended or revoked.
- 5.4 Any nursing assistant who allows his/her registration to lapse for less than two (2) years by failing to renew it, may be reinstated by the Department upon submission of an application and payment of the renewal fee of twenty-four dollars (\$24.00) unless the registration has been suspended or revoked.
- 5.4.1 An applicant seeking renewal shall have been employed as a nursing assistant for at least eight (8) hours within the prior twenty-four (24) months; or have completed a nursing assistant training and testing program within the past twenty-four (24) months.
- 5.4.2 An applicant seeking renewal shall have been employed as a nursing assistant in a Rhode Island-licensed health care facility licensed under the provisions of Chapter 23-17 of the Rhode Island General Laws, as amended; an assisted living residence licensed under the provisions of Chapter 23-17.4 of the Rhode Island General Laws, as amended; an adult day services program licensed under the provisions of Chapter 42-66 of the Rhode Island General Laws, as amended; or employed by a nursing service

agency licensed under the provisions of Chapter 23-17.7.1 of the Rhode Island General Laws, as amended. Private duty employment shall not meet this obligation for renewal of a certificate of registration as a nursing assistant.

- 5.4.3 Any nursing assistant who allows his/her registration to lapse for a period of two (2) years or longer shall be required to successfully complete the nursing assistant training program, and all required examinations, prior to being reinstated as a nursing assistant.
- 5.5 An applicant seeking renewal shall have his/her employment verified by the employer on the renewal form provided by the Department.

### ***Removal of Name from Nurse Aide Registry***

- 5.6 In the case of a finding of neglect, as defined herein, a nursing assistant may petition the Department in writing to have his/her offense removed from the registry upon a determination by the Department that the employment and personal history of the nursing assistant does not reflect a pattern of abusive behavior or neglect; and the neglect involved in the original finding was a singular occurrence.
- 5.7 A nursing assistant shall submit a written petition to:

Rhode Island Department of Health  
Nursing Assistant Advisory Board  
3 Capitol Hill, Room 105  
Providence, RI 02908

Such petition shall request that the nursing assistant's offense be removed from the registry in accordance with the criteria stated in section 5.6 (above).

- 5.8 The nursing assistant's name and offense shall remain on the registry for a period of one (1) year from the date on which the name was placed on the registry after which time the name may be removed if the petitioner's request is granted by the Department.

### ***Reinstatement of License***

- 5.9 A nursing assistant who has been registered in Rhode Island in good standing, has let his/her registration lapse, and has been working as a nursing assistant in an alternate jurisdiction within the two (2) years immediately preceding application for reinstatement, may apply for reinstatement of registration upon submission of the following:
- Recent passport-type photograph;
  - Full Bureau of Criminal Investigation (BCI) check from the Rhode Island Attorney General's Office ***only, within two (2) months of registration;***
  - Photocopy of active license/registration from the state where employed as a nursing assistant;
  - Reinstatement processing fee of \$24.00;
  - Proof of employment for at least one 8-hour shift within the past two (2) years (license must be current at the time of employment) in a nursing home, hospital, ~~or home care agency, assisted living residence, adult day services program, or employed by a nursing service agency.~~ ***OR possesses a current registered nurse (RN) or licensed practical nurse (LPN) license.***
  - Verification from current state of licensure that the applicant for reinstatement is and has been

in good standing in that jurisdiction.

Section 6.0 ***Denial, Revocation or Suspension of Registration/Disciplinary Proceedings***

- 6.1 Pursuant to the statutory provisions of sections 23-17.9-8 and 23-17.9-9 of the Rhode Island General Laws, as amended, the Department may deny, suspend or revoke any registration issued hereunder or may reprimand, censure or otherwise discipline an individual who has been found guilty of violations of the Act or the rules and regulations herein, in accordance with section 23-17.9-8 of the Rhode Island General Laws, as amended, and upon decision and after hearing as provided pursuant to section 11.0 herein in any of the following cases:
- a) upon proof that such nursing assistant is unfit or incompetent by reason of negligence, habits or other causes;
  - b) upon proof that such nursing assistant has violated any of the provisions of the Act or the rules and regulations herein; or acted in a manner inconsistent with the health and safety of the patients of the agency/home in which he or she is providing nursing assistant services;
  - c) upon proof that such nursing assistant has been convicted in a court of competent jurisdiction, either within or without this state, of a felony;
  - d) upon proof that the nursing assistant has otherwise violated the provisions of the Act;
  - e) has engaged in conduct detrimental to the health, welfare, and safety of patients/residents in his/her care;
  - f) has engaged in unprofessional conduct including, but not limited to, departure from, or failure to conform to, the standards of acceptable and prevailing practice.
- 6.2 All hearings and reviews as may be required herein shall be conducted in accordance with the provisions of the Administrative Procedures Act and the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)* of reference 4 herein.

## PART II

### Section 7.0 *Application for and Approval of Training for Nursing Assistant Training Programs*

- 7.1 Approval of a nursing assistant training program shall be granted for two (2) years, if the program is found to meet the requirements herein, and such approval may be renewed biennially unless approval has been sooner revoked or suspended.
- 7.2 Any person desiring to conduct a nursing assistant training program for the preparation of individuals to provide nursing assistant services shall apply to the Department for approval by submitting a completed application on forms provided by the Department accompanied by documentation pertaining to no less than the following:
- a) evidence of support and fiscal administration accountability;
  - b) sources and locations of potential students, faculty, classrooms, conference rooms, clinical laboratory for practical experience and other resources;
  - c) names and qualifications of instructors;
  - d) copy of the curriculum including provisions for the practical experience;
  - e) written statements of purpose, philosophy and objectives;
  - f) organization with clearly defined authorities and responsibilities and a chart showing the relationships and channels of communication of the program to other agencies, programs, etc.;
  - g) practical experiences related to areas of instruction of the didactic segment of the program; and
  - h) written policies and procedures pertaining to the nursing assistant training program.
- 7.3 The application fee for a nursing assistant training program certification shall be one hundred eighty-seven dollars and fifty cents (\$187.50). Any nursing assistant training program within a facility administered and operated by the state of Rhode Island shall be exempt from this fee.

#### *Standards for Training Program Approval*

- 7.4 The nursing assistant training program shall consist of no less than one hundred (100 ) clock hours including no less than twenty (20) hours of practical training integrated with the classroom topics and under supervision in accordance with the provisions of section ~~1.17~~ 1.20 herein.
- 7.5 A nursing assistant training program conducted in a health care facility shall be completed within ninety (90) days.
- 7.6 The course of instruction shall be designed to prepare students to perform all the nursing assistant duties listed in Appendix I herein. At least sixteen (16) hours of classroom instruction shall be required prior to a trainee's direct involvement with patients. Such instruction shall be consistent

with the curriculum outline of Appendix II herein.

### ***Personnel***

#### ***Program Coordinator***

- 7.7 Each nursing assistant training program shall have a coordinator who shall be responsible for the management of the instructional and practical portions of the program. The program coordinator must be a registered nurse with a minimum of two (2) years of nursing experience, one (1) of which must be in the provision of long term care services; and must have documented evidence of teaching and/or appropriate supervisory experience. Directors of nursing in nursing facilities are prohibited from performing actual training, but may supervise clinical training.

#### ***Instructors***

- 7.8 Competent resource personnel from various areas of the health field may participate as program instructors at the discretion of the program coordinator. Such personnel may include: licensed registered nurses (RNs)/practical nurses (LPNs) with one (1) year of nursing experience, dietitians; pharmacists; or physical therapists. Instructors shall have completed a course in teaching adults or have experience in teaching adults, or supervising nursing assistants, and shall have at least one (1) year of experience in their respective fields.

#### ***Policies and Procedures***

- 7.9 Each nursing assistant training program shall have available for students written policies pertaining to no less than the following:
- a) admission, re-admission, retention, dismissal and course completion requirements;
  - b) the identification of the resource facilities for the practical experience in a long-term care or appropriate acute care facility;
  - c) the supervision requirement of nursing assistants in all settings in accordance with section ~~4.17~~ 1.20 herein; and
  - d) such other provisions as may be deemed appropriate.

#### ***Resources and Facilities***

- 7.10 Each nursing assistant training program shall have adequate resources/facilities consistent with the philosophy, purposes, objectives and policies of the nursing assistant program. Such resources/facilities shall include no less than:
- a) classroom, offices, and conference rooms accessible to and adequate for the number of students;
  - b) sufficient instructional materials to meet the needs of students and instructor, including clinical supplies;

- c) furnishings of appropriate size and numbers as may be required for the instructional program and for the number of students;
- d) an adequate number of service resources to provide the kinds of practical learning experiences as required to meet the curriculum objectives;
- e) adequate financial support to implement and operate the nursing assistant program;
- f) compliance with all applicable licensing laws and regulatory requirements.

### ***Curriculum***

- 7.11 The objectives of the nursing assistant training program shall be consistent with the curriculum outline of Appendix II herein and shall promote the provision of quality health care services by nursing assistants who are able to perform competently the duties listed in Appendix I herein.

### ***Evaluation of Curriculum***

- 7.12 A systematic plan for on-going evaluation of the curriculum shall be established and include evaluation provisions pertaining to no less than:
- a) the implementation of the curriculum design;
  - b) the relationship of the curriculum to current needs of patients in health care facilities and current standards of practice;
  - c) revisions and/or modifications of curriculum as may be necessary based on evaluation data and/or other federal and state requirements.

### ***Examinations***

- 7.13 A written examination shall be administered that tests the knowledge and competency of a person to carry out the duties of a nursing assistant as defined in these regulations.
- 7.14 The nursing assistant program shall determine a person's skill, knowledge levels, and competency through a manual skills (practical) examination. Such examination shall test no less than the following:
- a) communication and interpersonal skills;
  - b) infection control;
  - c) safety emergency procedures;
  - d) promotion of patients' independence;
  - e) respecting patients' rights;
  - f) basic nursing skills;



- g) mental health/social service needs;
- h) care of cognitively impaired patients;
- i) basic restorative services.

7.15 In addition, the nursing assistant program shall test specific manual skills as set forth in Appendix I. Where appropriate, skills demonstration shall be performed on a real patient, or "pseudo-patient", but shall not be performed on a mannequin.

#### Section 8.0 ***Denial or Revocation of Approval/Termination of Program***

- 8.1 If the Department determines that an approved nursing assistant training program does not meet the requirements herein, the Department shall notify, in writing, the institution and/or agency or such other training program of a proposed pending action to deny or revoke the approval of the program and the institution and/or agency shall be given an opportunity for a prompt and fair hearing in accordance with the provisions of section 11.0 herein.
- 8.2 Any nursing assistant training program that terminates, for whatever reason, shall make provisions for the appropriate storage of its students' records to ensure future accessibility to the training program data for a minimum of five (5) years after the date of termination.
  - 8.2.1 Provisions shall be made for the completion of the nursing assistant training program for any individual who has begun a program, if, for whatever reason, the training program terminates.

#### Section 9.0 ***Advisory Board***

- 9.1 Within the Department there shall be established an Advisory Board which shall meet at least once a year and shall consist of eleven (11) members, four (4) of whom shall be registered nurses, three (3) of whom shall be nursing assistants, two (2) of whom shall be administrators of health care facilities, one (1) of whom shall be a public member, and one (1) of whom shall be a licensed practical nurse. All Board members shall be currently licensed in Rhode Island, where required, and shall be actively working in his/her profession.
- 9.2 Members of the Advisory Board shall be appointed by the Director: three (3) to serve for one (1) year; four (4) to serve for two (2) years; and four (4) to serve for three (3) years. No member shall be appointed for more than two (2) consecutive full terms. A member appointed for less than a full term (originally, or to fill a vacancy) may serve two (2) full terms in addition to that part of a full term, and a former member shall again be eligible for appointment after a period of one (1) or more years passes.
- 9.3 Successors to members of the Advisory Board whose terms expire shall be appointed in such year by the Director to hold office for three (3) years or until their respective successors are appointed.
- 9.4 The Director may remove any member of the Advisory Board for neglect of duty or incompetency and may fill vacancies that occur for any purpose for the remainder of the unexpired term.

### ***Functions of the Advisory Board***

- 9.5 The Advisory Board shall serve in an advisory capacity to the Director in matters pertaining to the registration of nursing assistants and the practice of nursing assistants. The Advisory Board shall advise the Director on such matters as policies affecting examination, qualifications, issuance and renewal, denial or revocation of licenses, and the development of rules and regulations.

### ***Section 10.0 Violations and Penalties***

- 10.1 Any person who violates the statutory or regulatory provisions herein shall be subject to the disciplinary provisions herein. Section 23-17.9-9 of the Act provides that it shall be a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) and/or imprisonment for not more than one (1) year for any person who:
- a) obtains his or her certification or registration by means of fraud, misrepresentation, or concealment of material facts;
  - b) practices as a nursing assistant under cover of any certification or registration illegally or fraudulently obtained or unlawfully issued; or
  - c) practices as a nursing assistant without registration and/or practices during the time his or her certification or registration issued under the provisions of the Act and the regulations herein is suspended or revoked; or
  - d) otherwise violates any of the provisions of the Act.

### ***Section 11.0 Rules Governing Practices and Procedures***

- 11.1 All hearings and reviews required under the provisions of Chapters 23-17.9 and 42-35 of the General Laws of Rhode Island, as amended, shall be held in accordance with the provisions of the rules and regulations of reference 4.

### ***Section 12.0 Severability***

- 12.1 If any provisions of these rules and regulations or the application to any individual or institution or agency or circumstances shall be held invalid, such invalidity shall not affect the provisions or the application of the regulations which can be given effect, and to this end the provisions of the regulations are declared to be severable.

## ***APPENDIX I***

### **A) DUTIES OF NURSING ASSISTANTS**

A nursing assistant duly registered in this state may discharge the following duties under supervision as described herein.

#### ***Personal Care Skills***

- ☐ Assist with complicated feeding, hydration
- ☐ Bed bath, tub bath, shower
- ☐ Care of skin and back
- ☐ Foot care, foot soak, applying foot lotion
- ☐ Nail care
- ☐ Oral hygiene
- ☐ Shampoo hair (sink, tub, bed) comb/brush
- ☐ Shave

#### ***Basic Nursing Skills***

- ☐ Application of dry heat and cold packs to intact skin
- ☐ Sitz bath to intact skin for comfort measures and pain relief only
- ☐ Application of topical over-the-counter (OTC) drugs to intact skin
- ☐ Apply lamb's wool
- ☐ Apply elastic stockings
- ☐ Care of patients on precautions
- ☐ Make an occupied, unoccupied bed
- ☐ Measure intake and output
- ☐ Reinforce simple non-sterile dressings
- ☐ Remind patient to take medication
- ☐ Care for a patient when death is imminent
- ☐ Post-mortem care
- ☐ Specimen collection
- ☐ Apply condom catheter
- ☐ Empty catheter bag, commode, urinal
- ☐ Assist with ostomy appliance
- ☐ Assist with commode, toilet, bedpans and urinals
- ☐ Change urinary drainage bag, excluding any sterile procedures
- ☐ Assist with bowel/bladder retraining
- ☐ Report and record weight and height
- ☐ Take and record vital signs (temperature, pulse, and respiration (TPR) and blood pressure)

#### ***Rehabilitation Skills***

- ☐ Ambulate
- ☐ Encourage self-help
- ☐ Positioning
- ☐ Normal range of motion
- ☐ Restraining and use of appropriate alternatives
- ☐ Transfer from bed, wheel chair, chair, commode
- ☐ Transfer using mechanical lift
- ☐ Use of assistive devices in ambulation, eating and dressing

### ***Environment***

- Care of patient environment
- Handling of blood/body fluid spills
- Clean patient care area
- Do basic domestic chores (e.g., laundry, ironing, dishes, food preparation, where appropriate)

### ***Recognition of and Reporting Signs and Symptoms***

- Infection
  - redness
  - swelling
  - fever
  - chills
  - drainage
- Respiratory Problems
  - shortness of breath
  - rapid respirations
  - Cheyne-Stokes respirations
  - cough
- Cardiac Problems
  - chest pains
  - cyanosis lips/nails
  - rapid pulse
- GI/GU problems
  - abdominal pain
  - nausea
  - vomiting
  - blood: urine/stool
  - difficulty urinating
  - diarrhea
- Endocrine problems
  - drowsiness
  - thirst
  - sweating

### **B) EXCLUDED FROM THE DUTIES OF A NURSING ASSISTANT:**

A nursing assistant shall not perform functions that otherwise require a professional license, certification or registration by state law and shall not perform the following duties that include but are not limited to:

- |  |  |
|--|--|
| ○ Sterile dressing application             | ○ Gastric lavage or gavage, including any tube feeding |
| ○ Injections                               | ○ Cutting toenails or fingernails for diabetic         |
| ○ Vaginal Irrigations                      | ○ Cutting toenails                                     |
| ○ Giving advice on medical/nursing matters | ○ Any treatment to non-intact skin                     |
| ○ Changing a Foley catheter                |  |

- Tracheostomy tube care

**Medications:** may only remind patient to take medication, unless he or she has completed a state approved training course in drug administration, but then shall not administer drugs or biologicals under any circumstances in an acute care setting, and shall not administer any Schedule II controlled substances.

C) **DUTIES WHICH A NURSING ASSISTANT MAY PERFORM UNDER DIRECT SUPERVISION:**

- Enema
- Colostomy irrigation
- Application of hot packs using moist heat device or heat lamp

In addition, nursing assistants may be assigned nursing duties beyond those listed in Parts A and C above (but in no case may they may be assigned any of the duties excluded in Part B), so long as those duties are clearly delineated in facility policies. Documented evidence of training and competency evaluation for each additional duty permitted to be discharged shall be filed in the individual's personnel file.

**APPENDIX II**  
***CURRICULUM OUTLINE BASIC NURSING ASSISTANT TRAINING PROGRAM***  
(80 classroom hours)  
(20 hours of practical experience)

**PART I        BEING A NURSING ASSISTANT - INTRODUCTION**

- Function of the nursing assistant
  - in health care institutions
  - in the home
- Working with the health care team
- Ethical responsibilities
  - accountability
  - confidentiality
- Policies and procedures
- State rules and regulations related to the registration of nursing assistants
- Communication and interpersonal skills
- Infection control
- Safety/emergency procedures
- Promoting patients' independence
- Respecting patients' rights

**PART II       BASIC HUMAN NEEDS**

- Patients as human beings
  - Physical, emotional, spiritual and mental health needs of patients throughout the life cycle
  - Modifying the nursing assistant's behavior in response to patient's behavior
  - Identifying developmental tasks associated with the life cycle
  - Behavior management (reinforcement, reduction, elimination of behaviors)
  - Allowing maximum independence in relation to patient's ability
- Working with the patient's family

**PART III      CARING FOR PATIENTS**

- Admission and discharge procedures
- Personal care skills
  - To include instruction relative to all those personal care duties outlined in Appendix I, which a nursing assistant may discharge under supervision.
- Basic nursing skills
  - Taking and recording vital signs
  - Measuring and recording vital signs
  - Caring for patient's environment
  - Observing, reporting and documenting abnormal signs and symptoms of common diseases
  - Caring for patients when death is imminent
  - Specimen collection (urine, stool, sputum)
  - Heimlich maneuver
- Basic Nutrition
  - Food and nutrition
  - Fluid balance
    - intake and output

- maintaining proper hydration

#### **PART IV BASIC RESTORATIVE SERVICES**

- Rehabilitation
  - Basic body mechanics
  - Anatomy/physiology
- Training the patient in self-care, according to ability
- Use of assistive devices in transferring, ambulation, eating and dressing
- Maintenance of range of motion
- Proper turning and positioning in bed and chair
- Bowel and bladder training
- Care and use of prosthetic and orthotic devices

#### **PART V CARE OF PATIENTS WITH SPECIFIC PROBLEMS**

- The patient with cognitive impairment
  - Techniques for addressing the unique needs and behaviors of individuals with dementia (Alzheimer's disease and others)
  - Communicating with patients
  - Understanding behavior
  - Appropriate responses to behavior
  - Methods for reducing the effects of cognitive impairment
- Care of patients with diseases of other body systems
  - Circulatory problems
  - Respiratory problems
  - Digestive system problems
  - Bowel and bladder problems
  - Musculoskeletal problems
  - Neurological problems
  - Endocrine problems
  - Skin problems

#### **PART VI PATIENT'S RIGHTS**

- Privacy/confidentiality
- The right to personal choices
- Giving assistance in resolving grievances and disputes
- Maximizing participation in resident and family groups
- Maintaining care and security of personal possessions/property
- Providing care which maintains the patient free from abuse
- Reporting abuse, mistreatment and neglect
- The use of restraints; avoiding the use of restraints

#### **PART VII PRACTICAL TRAINING**

Each student must satisfactorily complete twenty (20) hours of practical training under supervision and such practical experience shall be provided in a clinical setting for the practical application of nursing assistant duties as outlined in Appendix I.

The practical training must be integrated with the didactic portion of the curriculum for a meaningful learning experience.

#### ***REFERENCES***

1. "Registration of Nursing Assistants", Chapter 23-17.9 of the General Laws of Rhode Island, as amended.
2. "Licensing of Health Care Facilities", Chapter 23-17 of the General Laws of Rhode Island, as amended.
3. "Confidentiality of Health Care Information Act," Chapter 5-37.3 of the General Laws of Rhode Island, as amended.
4. *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*, Rhode Island Department of Health, April 2004 and subsequent amendments thereto.
5. Omnibus Budget Reconciliation Act (OBRA) 1987, Federal Register, Public Law 100-203, enacted 1987, and updates in 1989, 1990, 1991.
6. Chapter 16-40 of the General Laws, entitled "Proprietary Schools."
7. *Rules and Regulations Related to Pain Assessment (R5-37.6-PAIN)*, Rhode Island Department of Health, May 2003 and subsequent amendments thereto.

*Friday, July 14, 2006*  
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